

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Zhi-Xing Yao et al.	Examiner:	Unknown
Serial No.:	10/663,619	Group Art Unit:	1614
Filed:	September 16, 2003	Docket:	1941.014US1
Title:	NEUROPROTECTIVE SPIROSTENOL PHARMACEUTICAL COMPOSITIONS		

PETITION TO WITHDRAW
HOLDING OF ABANDONMENT UNDER 37 CFR § 1.181

MS Petitions - OIPE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

The Notice of Abandonment under 37 CFR § 1.53(f) or (g) dated 4 May 2007 deems this application abandoned for failure to timely or properly reply to the Notice to File Missing Parts mailed 19 October 2004. However, Applicant respectfully submits that a timely and proper reply was mailed, and Applicant respectfully requests that the holding of abandonment be withdrawn.

The Notice of Abandonment dated 4 May 2007 states that “[t]he retention fee of \$130 was received. The retention fee practice has been eliminated. See 37 CFR 1.78.” The proposed rule to eliminate the processing and retention fee (§ 1.21(1)) practice appeared in the Federal Register/Vol. 70, No. 38/ Monday, February 28, 2005/Proposed Rules (a copy of which is enclosed herewith; see page 9571, middle column, last paragraph). The rule was not effective until July 1, 2005 (Federal Register/Vol. 70, No 101/Thursday, May 26, 2005/Rules and Regulations, see page 30361, first column, first full paragraph; a copy of which is enclosed herewith).

As evidenced by the itemized date-stamped postcard enclosed herewith, Applicant mailed a request for Retention and paid the retention fee on January 7, 2005 (date-stamped/received by the USPTO on January 10, 2005). Therefore, Applicant paid the processing and retention fee **prior to the proposed** ruled date (February 28, 2005) and **prior to the effective** date of the rule (July 1, 2005). Thus, at the time Applicant paid the processing and retention fee (January 7, 2005), the processing and retention fee (§ 1.21(1)) practice was still in effect. Therefore, Applicant did timely and properly reply to the Notice to File Missing Parts mailed 19 October 2004.

Accordingly, Applicant's Representatives request that this Petition to Withdraw Holding of Abandonment under 37 C.F.R. § 1.181(a), based on a failure to submit a response to an Office Action in a timely and proper manner, be granted.

Under the circumstances it is believed that no fee is due for this Petition to Withdraw the holding of Abandonment. However, if a petition fee is deemed to be due, it may be charged to Deposit Account No. 19-0743. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ZHI-XING YAO ET AL.

By Applicants' Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
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Date May 22, 2007

By Monique M. Perdok Shonka
Monique M. Perdok Shonka
Reg. No. 42,989

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Petitions - OIPE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 22nd day of May 2007.

Amy Moriarty
Name

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Signature